

1 **SAO**

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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 -vs-

15 ROY PHILLIPS,

16 Defendant

17 CASE NO: 2:19-mj-00495-BNW

18 STIPULATION TO CONTINUE
19 TRIAL DATE
20 (Fourth Request)

21 IT IS HEREBY STIPULATED AND AGREED, by and between Rachel Kent,
22 Assistant United States Attorney, counsel for the United States of America, and
23 Damian R. Sheets, Esq., counsel for defendant, ROY PHILLIPS, that the trial presently
24 scheduled for January 15, 2020, be continued to a time convenient for the court.

25 This Stipulation is entered into for the following reasons:

- 26 1. As part of the investigation in this case, Defense Counsel is continuing to
27 collect and examine discovery. After examining such, it is possible that
28 there may be a need to file pre-trial motions or supplements to existing
1 motions.
2. Counsel for the United States and Defendant are in active negotiations and
3 require more time to present and consider offers of resolution.
3. Defense Counsels will not have sufficient and adequate time to effectively
4 and thoroughly prepare for trial and present an appropriate defense in
5 the above-captioned matter on the date currently set for trial.
4. Counsel for the Government has been advised by Defense counsel that,
5 after conferring with their clients, they may want to file pre-trial motions

1 and will need an extension of time to beyond the currently scheduled
2 motion cutoff dates.

- 3 5. Denial of this request for continuance would deny Defense Counsel
4 sufficient time, on the date currently set for trial, taking into account the
5 exercise of due diligence.
6 6. Furthermore, denial of this request for continuance could result in a
7 miscarriage of justice.
8 7. Defendant is currently out of custody and is not opposed to the
9 continuance.
10 8. This is the second request for a continuance by the current Defense
11 Counsel, after having substituted in for the previous.

12 The additional time requested by this Stipulation is excludable in computing
13 the time within which the trial herein must commence, pursuant to the Speedy Trial
14 Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors
15 under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

16 DATED this 14th day of January, 2020.

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/s/ Rachel Kent
22 RACHEL KENT, ESQ.
23 Assistant United States Attorney
Attorney for Plaintiff

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/s/ Damian R. Sheets
DAMIAN R. SHEETS, ESQ.
Nevada Bar No. 10755
Attorney for Defendant

1
2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**

4 UNITED STATES OF AMERICA,
5 Plaintiff,
6 -vs-
7 ROY PHILLIPS,
8 Defendant

CASE NO: 2:19-mj-00495-BNW

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

9 The Court having considered the Stipulation between the Plaintiff, United
10 States of America, by and through Rachel Kent, United States Attorney and
11 Defendant, Damian R. Sheets, Esq., counsel for Defendant ROY PHILLIPS, and makes
12 the following findings of fact and conclusions of law and enters the following order:

13 **FINDINGS OF FACT**

14 Counsel for the Government was advised by Damian R. Sheets, Esq., counsel
15 for Defendant, ROY PHILLIPS, that Defense Counsel needs further time to review
16 discovery and prepare for trial.

- 17 1. As part of the investigation in this case, Defense Counsel is continuing to
18 collect and examine discovery. After examining such, it is possible that
19 there may be a need to file pre-trial motions or supplements to existing
20 motions.
- 21 2. Counsel for the United States and Defendant are in active negotiations and
22 require more time to present and consider offers of resolution.
- 23 3. Defense Counsels will not have sufficient and adequate time to effectively
24 and thoroughly prepare for trial and present an appropriate defense in
25 the above-captioned matter on the date currently set for trial.
- 26 4. Counsel for the Government has been advised by Defense counsel that,
27 after conferring with their clients, they may want to file pre-trial motions

1 and will need an extension of time to beyond the currently scheduled
2 motion cutoff dates.

- 3 5. Denial of this request for continuance would deny Defense Counsel
4 sufficient time, on the date currently set for trial, taking into account the
5 exercise of due diligence.
6 6. Furthermore, denial of this request for continuance could result in a
7 miscarriage of justice.
8 7. Defendant is currently out of custody and is not opposed to the
9 continuance.
10 8. This is the second request for a continuance by the current Defense
11 Counsel, after having substituted in for the previous.

12 **CONCLUSIONS OF LAW**

13 The continuance sought herein is excludable under the Speedy Trial Act, Title
14 18, United States Code, Section 3161(H) and Title 18, United States Code, Section
15 3161(h)(7)(A), when considering the factors under Title 18, United States Code,
16 Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

17 The ends of justice served by granting said continuance outweigh the best
18 interest of the public and defendant in a speedy trial, since the failure to grant said
19 continuance would be likely to result in a miscarriage of justice, would deny defense
20 counsels sufficient time within which to be able to effectively and thoroughly
21 research and prepare for trial and submit for filing any appropriate motions, taking
22 into account the exercise of due diligence.

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ORDER

Based on the pending Stipulation of the parties and good cause appearing therefore,

IT IS THEREFORE ORDERED that the trial in this matter currently scheduled for January 15, 2020, at the hour of 8:30 a.m., be vacated and continued to the 29th day of April, 2020, at the hour of 8:45 am.

IT IS SO ORDERED

DATED: January 16, 2020

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**BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE**